

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

FRED PROCTOR, ET AL.,

Plaintiffs,

-vs-

Civil Case No. 07-CV-12414

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

L. APPEGATE, ET AL.,

Defendants.

**ORDER ADOPTING IN PART AND MODIFYING IN PART MAGISTRATE JUDGE'S
ORDER DENYING PLAINTIFFS' MOTION FOR EXTENSION OF TIME**

Before the Court is Plaintiffs Fred Proctor and Jason Petersen's Objections to Magistrate Judge Michael J. Hluchaniuk's June 26, 2008 Order denying Plaintiffs' second motion for extension of time to respond to Defendants' motion to dismiss. (Dkt. No. 150). The standard of review under 28 U.S.C. § 636(b)(1)(A) and Fed. R. Civ. P. 72(a) dictates that a magistrate judge's non-dispositive pretrial orders shall not be disturbed unless "found to be clearly erroneous or contrary to law." *United States v. Curtis*, 237 F.3d 598, 603 (6th Cir.2001).

On May 27, 2008, multiple Defendants filed a Motion to Dismiss.¹ (Dkt. Nos. 132). Thereafter, the Court ordered that Plaintiffs respond to Defendants' motions by June 30, 2008. Plaintiff Proctor, on behalf of all Plaintiffs, then filed a motion for extension of time to respond on

¹ These Defendants are: Andison, Applegate, Armstrong, Bell, Berry, Burtovoy, Butzin, Caldwell, Caruso, Dulworth, Eaton, Etalamaki (Dostaler), Evers, Ezrow, Farley, Faulkenstein, Gibbs, Gray, Hemry, Hill, Hill, Hobauer, Hosely, Ingram, Jeffersen, Jondreau, Kiser, Kotila, Krauss, Lalonde, Laplante, Letson, Luoma, Marschke, Mckee, Mohrman, Monahan, Mullen, Nannberg, Napal, Niedermeyer, Niemisto, Olin, Pass, Payne, Peiffer-Lenart, Perry, Perttu, Petaja, Pittsley, Pokely, Sands, Schooley, Smetka, Smith, Stapleton, Sweeney, Travino, Vien, Webb, Weise, Weisinger, Williams, Wilson, and York.

June 13, 2008, requesting a 40 day extension. The Magistrate Judge granted this request on June 18, 2008, allowing Plaintiffs to file their responses no later than July 21, 2008. (Dkt. No. 146).

On June 23, 2008, Plaintiffs then filed a second motion requesting a 40 day extension in which to respond to the May 27, 2008 Motion to Dismiss and did not acknowledge their previous request had been granted. (Dkt. No. 148).

Plaintiffs now argue that their second motion for extension of time was erroneously denied, and that Plaintiffs were seeking an extension to a separate motion to dismiss filed on June 19, 2008 by Defendants Horton and Watson. (Dkt. No. 147).

To the extent Plaintiffs seek an extension in time to respond to Defendants Horton and Watson's Motion to Dismiss, this request is **GRANTED** and the Order is modified in accordance. However, to the extent Plaintiffs appear to be seeking a second extension of time to respond to the Motion to Dismiss filed on May 23, 2008, Plaintiffs' objection is denied, as the Magistrate Judge's decision to deny the request was not clearly erroneous or contrary to law.

Therefore, the Court:

- (1) **GRANTS IN PART AND DENIES IN PART** Plaintiffs' Objections to the Order (Dkt. No. 152); and
- (2) **ADOPTS IN PART AND MODIFIES IN PART** the Order (Dkt. No. 148).

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: August 5, 2008

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on August 5, 2008.

s/Denise Goodine

Case Manager